

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

ROLANDO ORTEGA-CANDELARIA,

Plaintiff,

v.

JOHNSON & JOHNSON, et al.,

Defendants.

Civil No. 08-2382 (JAF)

**O R D E R**

On July 6, 2009, Plaintiff Rolando Ortega-Candelaria moved for reconsideration of our Opinion and Order dated June 25, 2009. (Docket No. 40.) Defendants opposed the motion on July 20, 2009. (Docket No. 41.)

We granted summary judgment in favor of Defendants on the basis of the statute of limitations, as modified by contract between the parties. (Docket No. 38.) Plaintiff contends that our prior order exhibited an error of law with respect to our refusal to apply equitable estoppel against Defendants' assertion of the temporal bar. (Docket No. 40.) Plaintiff argues for equitable estoppel on the basis of Defendants' alleged failure to sufficiently notify him of his available remedies and deadlines. (Id.) In response, Defendants insist that they had provided legally-adequate notice to Plaintiff. (Docket No. 41.)

Pursuant to Federal Rule of Civil Procedure 59(e), we entertain motions for reconsideration to (1) correct manifest errors of law or

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1 fact, (2) consider newly-discovered evidence, (3) incorporate an  
2 intervening change in the law, or (4) otherwise prevent manifest  
3 injustice. See Marie v. Allied Home Mortgage Corp., 402 F.3d 1, 7 n.2  
4 (1st Cir. 2005) (citing 11 Charles Allen Wright, Arthur R. Miller &  
5 Mary Kay Kane, Federal Practice and Procedure § 2810.1 (2d ed.  
6 1995)); see also Dr. José S. Belaval, Inc. v. Pérez-Perdomo, 465 F.3d  
7 33, 37 n.4 (1st Cir. 2006); Aybar v. Crispin-Reyes, 118 F.3d 10, 16  
8 (1st Cir. 1997); FDIC v. World Univ., Inc., 978 F.2d 10, 16 (1st Cir.  
9 1992). A Rule 59(e) motion "must be filed no later than 10 days after  
10 the entry of the judgment." Fed. R. Civ. P. 59(e).

11 To assert equitable estoppel, a party

12 must demonstrate that (1) the party to be  
13 estopped made a "definite misrepresentation of  
14 fact to another person having reason to believe  
15 that the other [would] rely upon it"; (2) the  
16 party seeking estoppel relied on the  
17 misrepresentations to its detriment; and (3) the  
18 "reliance [was] reasonable in that the party  
19 claiming the estoppel did not know nor should it  
20 have known that its adversary's conduct was  
21 misleading."

22 Ramírez-Carlo v. United States, 496 F.3d 41, 49 (1st Cir. 2007)  
23 (quoting Heckler v. Cmty. Health Servs., 467 U.S. 51, 59 (1984)).  
24 Plaintiff bases his argument for estoppel on Defendants' alleged  
25 failure to furnish information on procedures for review and relevant  
26 time limits in their notice of denial of benefits. (Docket Nos. 33,  
27 40.) Plaintiff apparently confuses the issue of Defendants'  
28 compliance with statutory duties of disclosure under federal law with

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1        their alleged misrepresentation by means of affirmative statements or  
2        material omissions in their communications with Plaintiff. (See id.)  
3        The relevant inquiry is not whether Defendants provided legally-  
4        sufficient details on Plaintiff's potential remedies, but rather  
5        whether Defendants' representations to Plaintiff were so materially  
6        misleading as to prevent him from satisfying the statute of  
7        limitations. See Ramírez-Carlo, 496 F.3d at 49.

8            In our prior order, we found no material misrepresentation by  
9        Defendants as the Plaintiff's outdated copy of his Long-Term  
10       Disability Plan ("LTD Plan"), effective October 28, 2002, expressly  
11       warned that it was subject to revision at any time. (Docket Nos. 18-  
12       3, 38.) A revised version of the LTD Plan, promulgated on July 1,  
13       2004, replaced the prior version and included a limitation of  
14       lawsuits to one year from a denial of benefits. (Docket No. 17-2.)  
15       Plaintiff does not challenge the validity of this updated LTD Plan or  
16       its applicability to him when Defendants denied him benefits. (See  
17       Docket Nos. 18, 33, 40.) As we held in our prior order, Plaintiff had  
18       a duty to read the most recent version of his LTD Plan and, thus,  
19       should have discovered the relevant time limit to avoid the temporal  
20       bar. (Docket No. 38.)

21            Instead of contesting the validity of the revised LTD Plan,  
22        Plaintiff points to Defendants' letters informing him of their denial  
23        of benefits. (Docket Nos. 33, 40.) These submissions exhibit no  
24        material misrepresentations by Defendants. (See Docket Nos. 33-2, 36-

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1 2.) Defendants' letter dated January 26, 2005, simply advised  
2 Plaintiff that he could file another appeal with Defendants to  
3 challenge his denial of benefits. (Id.) The letter made no  
4 representations as to Plaintiff's legal remedies in a court of law.  
5 (See id.) Although Plaintiff referred to a second letter denying a  
6 second appeal dated March 20, 2005 (Docket No. 33), he never  
7 submitted this communication for our consideration.

8 As Plaintiff cannot identify any "definite misrepresentation of  
9 fact" by Defendants, there is no basis for equitable estoppel. See  
10 Ramírez-Carlo, 496 F.3d at 49. Accordingly, we find no manifest error  
11 of law to warrant reconsideration of our order granting summary  
12 judgment to Defendants. See Allied Home Mortgage, 402 F.3d at 7 n.2.

13 In view of the foregoing, we hereby **DENY** Plaintiff's motion for  
14 reconsideration (Docket No. 40).

15 **IT IS SO ORDERED.**

16 San Juan, Puerto Rico, this 4<sup>th</sup> day of August, 2009.

17 S/José Antonio Fusté  
18 JOSE ANTONIO FUSTE  
19 Chief U.S. District Judge